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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

STATE OF ALASKA DEPARTMENT OF)
NATURAL RESOURCES and)
DEPARTMENT OF TRANSPORTATION)
AND PUBLIC FACILITIES,)
)
Plaintiffs,)
)
v.)
) Case No.: 4:13-00008-RRB
UNITED STATES OF AMERICA;)
AGNES M. PURDY, BARBARA A.) **THE STATE OF ALASKA'S**
REDMON, on behalf of Anne L. Purdy, et) **NOTICE REGARDING ORAL**
al.) **ARGUMENT CLARIFICATION**
)
Defendants.)
-----)

The State of Alaska provides this notice to clarify statements made during oral argument on July 27, 2018 regarding materials produced by the State in discovery. After reviewing the hearing recording and its discovery materials, the State is concerned that

the Court has incorrect information about whether the State produced materials about the Lillywig Trail to the Purdys during discovery.

During oral argument, counsel for the Purdys made the following statements alleging failure by the State to either investigate the Lillywig Trail or to disclose materials related to investigation of the Lillywig Trail. The times stamps from the electronic recording of the hearing are noted:

9:21:52 a.m. – “When we learned about the Lillywig Trail as a not only viable, but a preferred alternative for access to Chicken Ridge and beyond, we started exploring that. We recognized that, y’know, the State in the hundreds, if not thousands, of photographs and maps and other things that they’ve printed and cropped for us and attached to the Complaint and various pleadings over the years, the Lillywig Trail was always cut off. You couldn’t see it on any aerial that the State produced.”

9:26:55 a.m. – “We learned about the Lillywig Trail; we started taking our own pictures because the State wasn’t providing them even though we learned they were out there exploring it and taking pictures back in 2011, 2012.”

9:42:33 a.m. – “Why didn’t they tell us? … [The Court] should at least consider giving us additional time to do some more research on Lillywig because [the State] hid it from us, your Honor. Every map we got, every, go through the complaint, there’s dozens of photos and aerial maps, they don’t show that they investigated the Lillywig Trail. And every map is cut off on the western margin so as not to show the Lillywig Trail, which is plain as day going up the side of the hill.”

9:47:27 a.m. – “When we deposed Rocky Weber, the DNR guy, who has apparently been traipsing around up there taking pictures and surveying trails since 2011, 2012 and as recently as this Spring and has never said a word about Lillywig until his deposition.”

9:52:02 a.m. – “Why didn’t you send pictures that you took back in 2012?”

Throughout the course of discovery, however, the State has provided counsel for the Purdys with documents related to both RST 159 (Lillywig Summer Pack Trail) and

the trail commonly referred to as the Lillywig Trail that originates on the Taylor Highway in the federal Wild and Scenic Corridor. These materials included maps, memoranda, aerial and satellite imagery, dozens of photographs from 2011 and 2012 fieldwork, electronic mapping (GIS) files, and GPS track logs documenting the location of State personnel during their 2011 and 2012 fieldwork. Most of this material was provided in the State's initial disclosures on September 1, 2017 or by February 28, 2018; all of it was provided no less than eight weeks before the Purdys' dispositive motion oppositions were due.

On July 30th, counsel for the State sent an email to counsel for the Purdys with a non-exhaustive list of these previously produced materials by Bates number. In that email, the State requested that the parties file a joint statement to clarify the record that the State had, in fact, timely produced materials regarding the Lillywig Trail. Counsel for the Purdys did not respond to the State's offer.

Dated: July 31, 2018

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By: /s/ Michael S. Schechter

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Certificate of Service

I hereby certify that on July 31, 2018, a copy of the foregoing document was served electronically via the CM/ECF system to the following:

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